

**Notice of Allowability**

Application No.

10/530,837

Applicant(s)

LEE ET AL.

Examiner

Art Unit

QUANG NGUYEN, Ph.D.

1633

**- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 7/7/09.
2. ☒ The allowed claim(s) is/are 1 and 5-11.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of the:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.  
(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached  
1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.  
(b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.  
Identifying Indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

/QUANG NGUYEN/  
Primary Examiner, Art Unit 1633

### EXAMINER'S AMENDMENT

Applicant's amendment filed on 7/07/09 was entered.

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with attorney Ian Lodovice on January 06, 2010-January 07, 2010.

#### ***In the claims:***

Withdrawn claims 24-32 were cancelled. Claims 1, 5-6 and 10 were amended below.

***Claim 1 (Currently amended)*** An isolated nucleic acid molecule consisting of:

- (a) nucleotides 390-4880 of SEQ ID NO: 1;
- (b) nucleotides 39-4883 of SEQ ID NO: 1;
- (c) nucleotides 12-4904 of SEQ ID NO: 3;
- (d) nucleotides 12-4907 of SEQ ID NO: 3;
- (e) the full complement of nucleotides 390-4880 of SEQ ID NO: 1;
- (f) the full complement of nucleotides 390-4883 of SEQ ID NO: 1;
- (g) the full complement of nucleotides 12-4904 of SEQ ID NO: 3; or
- (h) the full complement of nucleotides 12-4907 of SEQ ID NO: 3.

**Claim 5 (Currently amended)** An ~~[[The]]~~ isolated nucleic acid molecule of claim 1, ~~wherein said nucleic acid molecule is operably linked to one or more expression control elements comprising one or more heterologous expression control elements operably linked to the nucleic acid molecule of claim 1.~~

**Claim 6 (Currently amended)** A vector comprising the ~~[[an]]~~ isolated nucleic acid molecule of claim ~~[[1]]~~ 5.

**Claim 10 (Currently amended)** A method for producing a polypeptide comprising:

(i) transforming a host cell with an isolated nucleic acid molecule comprising one or more heterologous expression control elements operably linked to a nucleic acid molecule comprising selected from the group consisting of:

- (a) nucleotides 390-4880 of SEQ ID NO: 1, ~~[[;]]~~
- (b) nucleotides 390-4883 of SEQ ID NO: 1, ~~[[;]]~~
- (c) nucleotides 12-4904 of SEQ ID NO: 3, ~~[[;]]~~ or
- (d) nucleotides 12-4907 of SEQ ID NO: 3; and

(ii) culturing the transformed host cell of step (i) ~~transformed with the isolated nucleic acid molecule of claim 4 under suitable conditions in which the protein encoded by said nucleic acid molecule is expressed to produce said polypeptide.~~

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quang Nguyen, Ph.D., whose telephone number is (571) 272-0776.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's SPE, Joseph T. Weitach, Ph.D., may be reached at (571) 272-0739.

**To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Group Art Unit 1633; Central Fax No. (571) 273-8300.**

**Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to (571) 272-0547.**

Patent applicants with problems or questions regarding electronic images that can be viewed in the Patent Application Information Retrieval system (PAIR) can now contact the USPTO's Patent Electronic Business Center (Patent EBC) for assistance. Representatives are available to answer your questions daily from 6 am to midnight (EST). The toll free number is (866) 217-9197. When calling please have your application serial or patent number, the type of document you are having an image problem with, the number of pages and the specific nature of the problem. The Patent Electronic Business Center will notify applicants of the resolution of the problem within 5-7 business days. Applicants can also check PAIR to confirm that the problem has been corrected. The USPTO's Patent Electronic Business Center is a complete service center supporting all patent business on the Internet. The USPTO's PAIR system provides Internet-based access to patent application status and history information. It also enables applicants to view the scanned images of their own application file folder(s) as well as general patent information available to the public.

/QUANG NGUYEN/  
Primary Examiner, Art Unit 1633